

The opinion in support of the decision being entered today was **not** written for publication and is **not** precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

**MAILED**

**SEP 26 2002**

Ex parte MASUHIRO NATSUHARA,  
HIROHIKO NAKATA,  
MOTOYUKI TANAKA  
and YASUHIRO MURASE

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Appeal No. 2002-0182  
Application No. 09/339,826

REMAND

Before DELMENDO, JEFFREY T. SMITH, and PAWLIKOWSKI,

Administrative Patent Judges.

PAWLIKOWSKI, Administrative Patent Judge.

**REMAND TO THE EXAMINER**

This is an appeal from the examiner's refusal to allow claims 1-3, which are all the claims pending in the application.

The examiner relies upon the following references as evidence of unpatentability:

Yasumoto et al. (Yasumoto)	4,963,701	Oct. 16, 1990
Sugiura et al. (Sugiura)	5,165,983	Nov. 24, 1992
Harris et al. (Harris)	5,424,261	Jun. 13, 1995
Chiao	5,540,884	Jul. 30, 1996
Harris et al. (Harris)	5,773,377	Jun. 30, 1998
Monma et al. (Monma)	JP08157265	Jun. 18, 1996
(Japanese foreign document with no English translation)		

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Harris, Chiao, Yasumoto, Sugiura, and Monma, each taken alone.

Upon review of the examiner's answer in its entirety, we observe that the examiner relies upon the Japanese foreign reference of Monma, but an English translation was not utilized nor made of record.

We therefore remand this application to the examiner to provide an English translation of the Japanese foreign reference (JP408157265A), and for full consideration of such English translation in connection with the rejection of record. See Ex Parte Jones, 62 USPQ2d 1206, 1208 (BPAI 2001). We request that the examiner identify the parts of the English translation, by pages/line numbering, which the examiner relies upon in rejecting the claims.

If reliance upon the English translation in any way constitutes a new ground of rejection, the examiner should reopen prosecution of the application. Otherwise, we authorize the examiner to file a supplemental examiner's answer.

This application, by virtue of its "special" status requires an immediate action, Manual of Patent Examining Procedure § 708.01d (8<sup>th</sup> ed., August 2001). It is important that

the Board be promptly informed of any action (abandonment, reopening prosecution, etc.) affecting the appeal in this application.

## REMANDED

Karlott. Palmes

ROMULO H. DELMENDO  
Administrative Patent Judge

Jeffrey F. Smith

JEFFREY T. SMITH  
Administrative Patent Judge

) BOARD OF PATENT  
) APPEALS AND  
) INTERFERENCES

Beverly A Lawless

BEVERLY A. PAWLIKOWSKI  
Administrative Patent Judge

SLD

Appeal No. 2002-018  
Application No. 09/339,826

MCDERMOTT WILL & EMERY  
600 13<sup>TH</sup> STREET, NW  
WASHINGTON, DC 20005-3096